

**STATE OF WASHINGTON**
**OFFICE OF  
INSURANCE COMMISSIONER**
**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF WASHINGTON**

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In the Matter of	)	No. D 2000 - 29
GERBER LIFE INSURANCE COMPANY,	)	CONSENT ORDER LEVYING A FINE
An Authorized Insurer	)	
	)	

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**FINDINGS OF FACT:**

1. Gerber Life Insurance Company ("Gerber" or the "Company") is a life and disability carrier licensed to do business in the State of Washington since October 2, 1972.
2. In 1996, Gerber sought approval to sell group dental insurance in Washington State. The Office of the Insurance Commissioner ("OIC" or the "agency") approved the company's filing in early 1997.
3. While its initial dental filing was still pending, Gerber raised its rates 14%. The Company did not file or gain agency approval for the rate increase.
4. On January 1, 1998, Gerber implemented another rate increase -- this time for 37.5%. The Company again did not file or gain agency approval for the rate increase.
5. The OIC received numerous consumer complaints as a result of the second rate increase.

6. Gerber contemplated implementing a third unauthorized rate increase but reversed itself after OIC intervention.
7. In a September 11, 1998 letter to the OIC, Gerber admitted that it implemented the rate increases without first filing them with the OIC.
8. In an October 23, 1998 letter to the OIC, Gerber admitted that it did not file the rate increase of 39.3% on another dental product, policy form "VBD-911".
9. On February 11, 1999, the OIC issued a jeopardy letter to Gerber. The letter notified the Company of its violations of Washington law and offered the opportunity to reach an informal resolution of the matter.
10. On August 26, 1999, Gerber sent out cancellation notices to its dental policyholders. Gerber informed the OIC of the notices only after they were sent out. In a September 1, 1999 fax to the OIC, Gerber stated that "the letter [was] inadvertently sent to Washington policyholders contrary to our instructions." After discussions with Gerber, the OIC agreed to let the cancellation stand.
11. During 1998 and 1999, OIC staff expended considerable time and resources attempting to establish the full scope of Gerber's rating, marketing, filing and benefit practices. Gerber repeatedly failed to respond to the OIC's inquiries in a complete and timely manner.
12. Gerber's unauthorized rate increases affected thousands of Washington State consumers.

#### CONCLUSIONS OF LAW:

1. Gerber's failure to file rate increases for its group dental insurance products is a violation of RCW 48.19.010.
2. Gerber's failure to obtain OIC approval for its group dental insurance filings is a violation of RCW 48.18.100.
3. Gerber's failure to respond completely to OIC inquiries regarding these dental programs within fifteen business days is a violation of WAC 284.30.360.
4. RCW 48.05.185 authorizes the Commissioner to impose a fine in lieu of the suspension or revocation of a company's certificate of authority.

#### CONSENT TO ORDER

Gerber Life Insurance Company hereby admits to the foregoing Findings of Fact and agrees to the Conclusions of Law without prejudice to Gerber's right to contest these Conclusions in disputes with other parties. The Company hereby consents to the entry of this order.

The Commissioner has offered a settlement in lieu of suspending or revoking the Company's certificate of authority.

By agreement of the parties, the OIC will impose a fine of \$300,000, and suspend \$150,000, on condition that:

1. Gerber pay \$150,000 of the fine for its violations of Washington insurance law.
2. Gerber pay a refund of \$200,000. The refund shall be paid on a pro rata basis to the 1,298 Gerber dental insurance policyholders as of August 26, 1999, the date the programs were discontinued in Washington State, and to any former policyholder who responds within thirty days to the notice to be published on the OIC's Web site.
3. Gerber commit no further violations of the statutes and regulations that are the subject of this Consent Order for a period of two years from the date on which this Order is entered.

This fine must be paid in full within thirty days of the entry of this Order. Pursuant to RCW 48.05.185, failure to pay the fine within the allotted time shall constitute grounds for revocation of the insurer's certificate of authority, and for the recovery of the fine in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

Gerber acknowledges its duty to comply fully with the applicable laws of the State of Washington.

EXECUTED this 21 day of March, 2000.

	Title:

#### ORDER

Pursuant to RCW 48.05.185, the Insurance Commissioner hereby imposes a fine of three hundred thousand dollars, with one hundred fifty thousand dollars suspended, upon Gerber Life Insurance Company. The fine must be paid in full within thirty days of the date of entry of this order. Failure to pay the fine within the allotted time shall constitute grounds for the revocation of the insurer's certificate of authority, and for the recovery of the fine in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

Gerber will perform Conditions One through Three as set forth in the "Consent to Order" section of this Order. The Commissioner may impose the balance of the suspended fine and suspend or revoke Gerber's certificate of authority should the company fail to meet these conditions.

ENTERED AT OLYMPIA, WASHINGTON, this 27th day of March 2000.

	DEBORAH SENN
	Insurance Commissioner
	By

	Jeffrey Coopersmith
	Deputy Commissioner Legal Affairs

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